

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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BILL DRAFT 2011-SQz-23A [v.1] (03/11)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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Short Title: LME Governance.

(Public)

Sponsors: Representative.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES IN GOVERNANCE OF LOCAL MANAGEMENT
3 ENTITIES WITH RESPECT TO THE IMPLEMENTATION OF STATEWIDE
4 EXPANSION OF THE 1915(B)/(C) MEDICAID WAIVER AS RECOMMENDED BY
5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 122C-115(a) reads as rewritten:

7 "§ 122C-115. Duties of counties; appropriation and allocation of funds by counties and
8 cities.

9 (a) A county shall provide mental health, developmental disabilities, and substance
10 abuse services through an area authority or through a county program established pursuant to
11 ~~G.S. 122C-115.1~~ G.S. 122C-115.1 and in accordance with rules, policies, and guidelines
12 adopted pursuant to statewide restructuring of the management responsibilities for the delivery
13 of services for individuals with mental illness, intellectual and developmental disabilities, and
14 substance abuse disorders under a 1915(b)/(c) Medicaid Waiver. Beginning July 1, 2012, the
15 catchment area of an area authority or a county program shall contain a minimum population of
16 at least 300,000. Beginning July 1, 2013, the catchment area of an area authority or a county
17 program shall contain a minimum population of at least 500,000. To the extent this section
18 conflicts with G.S. 153A-77(a), the provisions of G.S. 153A-77(a) control."

19 SECTION 2. G.S. 122C-116 reads as rewritten:

20 "§ 122C-116. Status of area authority; ~~status of consolidated human services~~
21 ~~agency authority.~~

22 (a) An area authority is a local political subdivision of the State ~~except that a single~~
23 ~~county area authority is considered a department of the county in which it is located for the~~
24 ~~purposes of Chapter 159 of the General Statutes.~~ State.

25 (b) ~~A consolidated human services agency is a department of the county.~~

26 SECTION 3. G.S. 122C-118.1 reads as rewritten:

27 "§ 122C-118.1. Structure of area board.

28 (a) ~~An area board shall have no fewer than 11 and no more than 25 members. However,~~
29 ~~the area board for a multicounty area authority consisting of eight or more counties may have~~
30 ~~up to 30 members. In a single county area authority, the members shall be appointed by the~~
31 ~~board of county commissioners. Except as otherwise provided, in areas consisting of more than~~
32 ~~one county, each board of county commissioners within the area shall appoint one~~
33 ~~commissioner as a member of the area board. These members shall appoint the other members.~~



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~~The boards of county commissioners within the multicounty area shall have the option to appoint the members of the area board in a manner other than as required under this section by adopting a resolution to that effect. The boards of county commissioners in a multicounty area authority shall indicate in the business plan each board's method of appointment of the area board members in accordance with G.S. 122C 115.2(b). These appointments shall take into account sufficient citizen participation, representation of the disability groups, and equitable representation of participating counties. Individuals appointed to the board shall include two individuals with financial expertise, an individual with expertise in management or business, and an individual representing the interests of children. A member of the board may be removed with or without cause by the initial appointing authority. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.~~

(a1) An area board shall have no fewer than 11 and no more than 21 voting members. The board of county commissioners or the boards of county commissioners within the area shall appoint members consistent with the requirements provided in subsection (b) of this section. A member of the board may be removed with or without cause by the initial appointing authority. The area board may declare vacant the office of an appointed member who does not attend three consecutive scheduled meetings without justifiable excuse. The chairman of the area board shall notify the appropriate appointing authority of any vacancy. Vacancies on the board shall be filled by the initial appointing authority before the end of the term of the vacated seat or within 90 days of the vacancy, whichever occurs first, and the appointments shall be for the remainder of the unexpired term.

~~(b) Except as otherwise~~Within the maximum membership provided in this subsection,~~not more than fifty percent (50%) of subsection (a1) of this section,~~ the members of the area board shall reside within the catchment area and represent the following:

- ~~(1) A physician licensed under Chapter 90 of the General Statutes to practice medicine in North Carolina who, when possible, is certified as having completed a residency in psychiatry. At least one member who is a current County Commissioner.~~
- ~~(2) A clinical professional from the fields of mental health, developmental disabilities, or substance abuse. The Chair of the local Consumer and Family Advisory Committee or the Chair's designee.~~
- ~~(3) At least one family member or individual from a citizens' organization composed primarily of consumers or their family members, of the local Consumer and Family Advisory Committee as recommended by the local CFAC representing the interests of individuals:~~
 - a. With mental illness;
 - b. In recovery from addiction; or
 - c. With intellectual and developmental disabilities.
- ~~(4) At least one openly declared consumer member of the local Consumer and Family Advisory Committee as recommended by the local CFAC representing the interests of individuals:~~
 - a. With mental illness; or
 - b. With intellectual and developmental disabilities; or
 - c. In recovery from addiction.
- (5) An individual with healthcare expertise and experience in the fields of mental health, intellectual and developmental disabilities, or substance abuse services.
- (6) An individual with Health Care Administration expertise consistent with the scale and nature of the managed care organization.

- (7) An individual with financial expertise consistent with the scale and nature of the managed care organization.
- (8) An individual with insurance expertise consistent with the scale and nature of the managed care organization.
- (9) An individual with social services expertise and experience in the fields of mental health, intellectual and developmental disabilities, or substance abuse services.
- (10) An attorney with healthcare expertise.
- (11) A member who represents the general public who is not employed by or affiliated with the Department of Health and Human Services as appointed by the Secretary.
- (12) The President of the LME/MCO Provider Council or the President's designee to serve as non-voting advisory member. Advisory members shall only participate in Board activities that are open to the public.

~~An~~ Except as provided in subdivision (12) of this subsection, an individual that contracts with a local management entity (LME) for the delivery of mental health, developmental disabilities, and substance abuse services may not serve on the board of the LME for the period during which the contract for services is in effect. The board of county commissioners shall ensure there is at least one member representing the interest of each of the following: (i) individuals with mental illness, (ii) individuals with intellectual and developmental disabilities, and (iii) individuals in recovery from addiction from the members described in subdivisions (2) through (4) of this subsection.

(c) The board of county commissioners may elect to appoint a member of the area authority board to fill concurrently no more than two categories of membership if the member has the qualifications or attributes of the two categories of membership.

(d) Any member of an area board who is a county commissioner serves on the board in an ex officio capacity at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the member's service as a county commissioner. Any member of an area board who is a county manager serves on the board at the pleasure of the initial appointing authority, for a term not to exceed the earlier of three years or the duration of the member's employment as a county manager. The terms of the other members on the area board shall be for three years, except that upon the initial formation of an area board one-third shall be appointed for one year, one-third for two years, and all remaining members for three years. ~~Members, other than county commissioners and county managers, Members~~ shall not be appointed for more than ~~two~~three consecutive terms. Board members serving as of July 1, 2006, may remain on the board for one additional term. This subsection applies to all area authority board members regardless of the procedure used to appoint members under subsection (a) of this section.

(e) Upon request, the board shall provide information pertaining to the membership of the board that is a public record under Chapter 132 of the General Statutes."

SECTION 4. Notwithstanding G.S. 122C-118.1(b), as enacted by Section 3 of this act, members serving on the area boards on the effective date of this act may complete the terms for which they were appointed.

SECTION 5.(a) G.S. 122C-119.1 reads as rewritten:
"§ 122C-119.1. Area Authority board members' training.

All members of the governing body for an area authority shall receive initial orientation on board members' responsibilities and annual training provided by the Department ~~in~~and shall include fiscal management, budget development, and fiscal accountability. A member's refusal to be trained shall be grounds for removal from the board."

1 **SECTION 5.(b)** The North Carolina Department of Health and Human Services in
2 cooperation with the School of Government and the local management entities shall develop a
3 standardized core curriculum for the training described in Section 4(a) of this act.

4 **SECTION 6.** G.S. 122C-170(b) reads as rewritten:

5 "Part 4A. Consumer and Family Advisory Committees.

6 **§ 122C-170. Local Consumer and Family Advisory Committees.**

7 ...

8 (b) Each of the disability groups shall be equally represented on the CFAC, and the
9 CFAC shall reflect as closely as possible the racial and ethnic composition of the catchment
10 area. The terms of members shall be three years, and no member may serve more than ~~two~~three
11 consecutive terms. The CFAC shall be composed exclusively of:

12 (1) Adult consumers of mental health, developmental disabilities, and substance
13 abuse services.

14 (2) Family members of consumers of mental health, developmental disabilities,
15 and substance abuse services.

16 **SECTION 7.** Area Authorities operating as multicounty programs may enter into
17 interlocal agreement with one or more additional counties by resolution ratified by a majority
18 of the boards of commissioners of the existing area authority's member counties.

19 **SECTION 8.** Beginning July 1, 2012, and for a period of three years thereafter, the
20 Department of Health and Human Services shall not approve any counties request to withdraw
21 from a multicounty area authority operating under the 1915 b/c waiver. The Secretary shall
22 adopt rules to establish a process for county disengagement that shall at a minimum ensure the
23 following:

24 (a) Provisions of service are not disrupted by the disengagement.

25 (b) The disengaging county is either in compliance or plans to merge with an area
26 authority that is in compliance with population requirements provided in G.S. 122C-155(a).

27 (c) The timing of the disengagement is accounted for and does not conflict with setting
28 capitation rates.

29 (d) Adequate notice is provided to the affected counties, the Department of Health and
30 Human Services, and the General Assembly.

31 **SECTION 9.** G.S. 122C-112.1 is amended by adding a new subdivision to read:

32 "(38) Adopt rules establishing a procedure for single county disengagement from an area
33 authority operating under a 1915 b/c waiver.".

34 **SECTION 10.** This act is effective when it becomes law.